

AMENDED IN ASSEMBLY JUNE 2, 2014

AMENDED IN SENATE APRIL 29, 2014

AMENDED IN SENATE MARCH 28, 2014

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 973

Introduced by Senator Hernandez

February 10, 2014

An act to amend Sections 11839.3, 11839.22, and 11839.24 of the Health and Safety Code, relating to narcotic treatment.

LEGISLATIVE COUNSEL'S DIGEST

SB 973, as amended, Hernandez. Narcotic treatment programs.

Existing law requires the State Department of Health Care Services to administer prevention, treatment, and recovery services for alcohol and drug abuse. Existing law requires the department to license the establishment of narcotic treatment programs in this state to use narcotic replacement therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. Existing law authorizes a program to admit a patient to narcotic maintenance or narcotic detoxification treatment 7 days after completion of a prior withdrawal treatment episode.

This bill, instead, would authorize a program to admit a patient to narcotic maintenance or narcotic detoxification treatment at the discretion of the medical director and would require the program to assign a unique identifier to, and maintain an individual record of, each patient of the program. The bill would also specify that the program operation guidelines for narcotic treatment programs may include

reliable and medically necessary body fluid analysis other than ~~urinalysis~~
~~urinalysis, as specified.~~

Existing law specifies the intent of the Legislature that ~~take-home~~
~~self-administered~~ dosage of the narcotic replacement only be provided
 when the patient is clearly adhering to the requirements of the program
 and where daily attendance at a clinic would be incompatible with
 gainful employment, education, and responsible homemaking.

This bill, in addition, would authorize take-home ~~dosage~~ *doses* to be
 provided to patients who are clearly adhering to the requirements of
 the program ~~where if~~ daily attendance at a clinic would be incompatible
 with retirement or medical disability or if the program is closed on
 Sundays or holidays and providing a take-home dose is not contrary to
 federal laws and regulations. The bill would ~~prohibit~~ *require* a narcotic
 treatment program ~~from providing a take-home dosage that requires~~
~~dilution~~ *medical director to determine whether or not to dilute take-home*
doses.

Existing law requires substance abuse testing for narcotic treatment
 programs to be performed by a laboratory approved and licensed by
 the State Department of Public Health.

This bill would require a narcotic treatment program to have samples
 from each patient's urinalysis or other body fluid test collected and
 analyzed for evidence of specified substances, including methadone,
 opiates, and cocaine, and would authorize the program to test for
 evidence of other illicit drugs if those drugs are commonly used in the
 area served by the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11839.3 of the Health and Safety Code
- 2 is amended to read:
- 3 11839.3. (a) In addition to the duties authorized by other
- 4 statutes, the department shall perform all of the following:
- 5 (1) License the establishment of narcotic treatment programs
- 6 in this state to use narcotic replacement therapy in the treatment
- 7 of addicted persons whose addiction was acquired or supported
- 8 by the use of a narcotic drug or drugs, not in compliance with a
- 9 physician and surgeon's legal prescription, except that the Research
- 10 Advisory Panel shall have authority to approve methadone or

1 LAAM research programs. The department shall establish and
2 enforce the criteria for the eligibility of patients to be included in
3 the programs, program operation guidelines, including dosage
4 levels, recordkeeping and reporting, requirements for urinalysis
5 or other reliable and medically necessary body fluid analysis that
6 is at least as accurate as, or more accurate than, current testing
7 methods, take-home doses of controlled substances authorized for
8 use pursuant to Section 11839.2, security against redistribution of
9 the narcotic replacement drugs, and any other regulations that are
10 necessary to protect the safety and well-being of the patient, the
11 local community, and the public, and to carry out this chapter. A
12 program may admit a patient to narcotic maintenance or narcotic
13 detoxification treatment at the discretion of the medical director.
14 The program shall assign a unique identifier to, and maintain an
15 individual record for, each patient of the program. The arrest and
16 conviction records and the records of pending charges against a
17 person seeking admission to a narcotic treatment program shall be
18 furnished to narcotic treatment program directors upon written
19 request of the narcotic treatment program director provided the
20 request is accompanied by a signed release from the person whose
21 records are being requested.

22 (2) Inspect narcotic treatment programs in this state and ensure
23 that programs are operating in accordance with the law and
24 regulations. The department shall have sole responsibility for
25 compliance inspections of all programs in each county. Annual
26 compliance inspections shall consist of an evaluation by onsite
27 review of the operations and records of licensed narcotic treatment
28 programs' compliance with applicable state and federal laws and
29 regulations and the evaluation of input from local law enforcement
30 and local governments, regarding concerns about the narcotic
31 treatment program. At the conclusion of each inspection visit, the
32 department shall conduct an exit conference to explain the cited
33 deficiencies to the program staff and to provide recommendations
34 to ensure compliance with applicable laws and regulations. The
35 department shall provide an inspection report to the licensee within
36 30 days of the completed onsite review describing the program
37 deficiencies. A corrective action plan shall be required from the
38 program within 30 days of receipt of the inspection report. All
39 corrective actions contained in the plan shall be implemented
40 within 30 days of receipt of approval by the department of the

1 corrective action plan submitted by the narcotic treatment program.
2 For programs found not to be in compliance, a subsequent
3 inspection of the program shall be conducted within 30 days after
4 the receipt of the corrective action plan in order to ensure that
5 corrective action has been implemented satisfactorily. Subsequent
6 inspections of the program shall be conducted to determine and
7 ensure that the corrective action has been implemented
8 satisfactorily. For purposes of this requirement, “compliance” shall
9 mean to have not committed any of the grounds for suspension or
10 revocation of a license provided for under subdivision (a) of
11 Section 11839.9 or paragraph (2) of subdivision (b) of Section
12 11839.9. Inspection of narcotic treatment programs shall be based
13 on objective criteria including, but not limited to, an evaluation of
14 the programs’ adherence to all applicable laws and regulations and
15 input from local law enforcement and local governments. Nothing
16 in this section shall preclude counties from monitoring their
17 contract providers for compliance with contract requirements.

18 (3) Charge and collect licensure fees. In calculating the licensure
19 fees, the department shall include staff salaries and benefits, related
20 travel costs, and state operational and administrative costs. Fees
21 shall be used to offset licensure and inspection costs, not to exceed
22 actual costs.

23 (4) Study and evaluate, on an ongoing basis, narcotic treatment
24 programs including, but not limited to, the adherence of the
25 programs, to all applicable laws and regulations and the impact of
26 the programs on the communities in which they are located.

27 (5) Provide advice, consultation, and technical assistance to
28 narcotic treatment programs to ensure that the programs comply
29 with all applicable laws and regulations and to minimize any
30 negative impact that the programs may have on the communities
31 in which they are located.

32 (6) In its discretion, to approve local agencies or bodies to assist
33 it in carrying out this chapter provided that the department may
34 not delegate responsibility for inspection or any other licensure
35 activity without prior and specific statutory approval. However,
36 the department shall evaluate recommendations made by county
37 alcohol and drug program administrators regarding licensing
38 activity in their respective counties.

39 (7) The director may grant exceptions to the regulations adopted
40 under this chapter if he or she determines that this action would

1 improve treatment services or achieve greater protection to the
2 health and safety of patients, the local community, or the general
3 public. No exception may be granted if it is contrary to, or less
4 stringent than, the federal laws and regulations that govern narcotic
5 treatment programs.

6 (b) It is the intent of the Legislature in enacting this section, in
7 order to protect the general public and local communities, that
8 ~~take-home-dosage~~ *doses* shall only be provided when the patient
9 is clearly adhering to the requirements of the program, and ~~where~~
10 ~~if~~ daily attendance at a clinic would be incompatible with gainful
11 employment, education, responsible homemaking, retirement or
12 medical disability, or if the program is closed on Sundays or
13 holidays and providing a take-home dose is not contrary to federal
14 laws and regulations governing narcotic treatment programs. The
15 department shall define “satisfactory adherence” and shall ensure
16 that patients not satisfactorily adhering to their programs shall not
17 be provided take-home ~~dosage~~ *doses*. A narcotic treatment program
18 ~~shall not provide a take-home dosage that requires dilution~~ *medical*
19 *director shall determine whether or not to dilute take-home doses.*

20 (c) There is established in the State Treasury the Narcotic
21 Treatment Program Licensing Trust Fund. All licensure fees
22 collected from the providers of narcotic treatment services shall
23 be deposited in this fund. Except as otherwise provided in this
24 section, if funds remain in this fund after appropriation by the
25 Legislature and allocation for the costs associated with narcotic
26 treatment licensure actions and inspection of narcotic treatment
27 programs, a percentage of the excess funds shall be annually
28 rebated to the licensees based on the percentage their licensing fee
29 is of the total amount of fees collected by the department. A reserve
30 equal to 10 percent of the total licensure fees collected during the
31 preceding fiscal year may be held in each trust account to reimburse
32 the department if the actual cost for the licensure and inspection
33 exceed fees collected during a fiscal year.

34 (d) Notwithstanding any provision of this code or regulations
35 to the contrary, the department shall have sole responsibility and
36 authority for determining if a state narcotic treatment program
37 license shall be granted and for administratively establishing the
38 maximum treatment capacity of a license. However, the department
39 shall not increase the capacity of a program unless it determines

1 that the licensee is operating in full compliance with applicable
2 laws and regulations.

3 SEC. 2. Section 11839.22 of the Health and Safety Code is
4 amended to read:

5 11839.22. The state department shall require a system to detect
6 multiple registrations by narcotic treatment program patients.

7 SEC. 3. Section 11839.24 of the Health and Safety Code is
8 amended to read:

9 11839.24. (a) Substance abuse testing for narcotic treatment
10 programs operating in the state shall be performed only by a
11 laboratory approved and licensed by the State Department of Public
12 Health for the performance of those tests.

13 (b) A narcotic treatment program shall have samples from each
14 patient's urinalysis or other bodily fluid test collected and analyzed
15 for evidence of the following substances in a patient's system:

16 (1) Methadone and its primary metabolite.

17 (2) Opiates.

18 (3) Cocaine.

19 (4) Amphetamines.

20 (5) Benzodiazepines.

21 (c) A narcotic treatment program may have samples from each
22 patient's urinalysis or other bodily fluid test collected and analyzed
23 for evidence of other illicit drugs if those drugs are commonly
24 used in the area served by the narcotic treatment program.